

ORDINANCE NO. _____, SERIES 2009

AN ORDINANCE AMENDING SECTIONS 32.257
AND 32.253 OF THE LOUISVILLE/JEFFERSON
COUNTY METRO CODE OF ORDINANCES, AND
ADDING SECTION 32.263 CONCERNING APPEALS
(AS AMENDED).

SPONSORED BY: Councilman Tom Owen

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE
LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL)
AS FOLLOWS:

SECTION I: Section 32.253 of the Louisville/Jefferson County Metro Code of
Ordinances (Code) is amended as follows:

§ 32.257 APPLICATION FOR CERTIFICATE OF APPROPRIATENESS.

(K) Any applicant, whose application is denied by the staff or a committee, and any person or entity claiming to be injured or aggrieved by any decision made by staff or a Committee, may appeal the decision to the Commission. The appeal shall be in writing and shall fully state the reasons why the appeal is sought. An appeal shall be filed ~~by an applicant~~ within 30 days of the date of the decision. Upon the receipt by the staff of a timely appeal, the staff shall schedule a meeting of the Commission to consider the appeal. Notice of the meeting shall be mailed to the applicant, the property owner, the appellant, and other parties of record, by first class mail, at least seven days prior to the date of the meeting. At the meeting to consider the appeal, the Commission shall review the application and the record of the prior proceedings and, at the discretion of the Chairman, may take additional testimony from the applicant, the property owner, appellant, or other interested parties for the purpose of supplementing the existing record or for the introduction of new information. Upon review of the record and any supplemental or new information presented at the meeting, the Commission shall make a written determination that the decision shall be upheld or overturned. A decision ~~denying an application~~ of the staff or the Committee shall be overturned by the Commission only upon the written finding that the staff or Committee was clearly erroneous as to a material finding of fact related to whether the proposed exterior alteration complied with the Guidelines. ~~in concluding that the proposed exterior alteration was not in compliance with the guidelines.~~ When the Commission overturns a denial of an application, it shall approve the application, or approve the application with conditions. Any member of the Commission who voted on the application when it was considered by the Committee shall not vote on the question of whether the decision of the Committee shall be upheld or overturned.

SECTION II: Section 32.253 of the Code is amended as follows:

§ 32.253 ARCHITECTURAL REVIEW COMMITTEE.

(A) There is established for each District an Architectural Review Committee which shall have the powers and functions within such District as provided herein.

(B) There is established for the structures or properties designated as local landmarks an Architectural Review Committee which shall have the powers and functions with respect to local landmarks as provided herein.

(C) Each Committee shall consist of seven members, one of whom shall be the Director of the Department of Inspections, Permits and Licenses or his or her designee, two members shall be members of the Commission appointed by the Commission Chairperson and four members who shall be appointed by the Commission and approved by the Metro Council. In the case of a Committee established for a district, no fewer than two members shall be owner-residents or tenants within such district, one member shall be a real estate professional and one member shall be an architect and one member shall be the owner of income producing property located within the district. All members shall have a known interest in local landmarks districts preservation. Members appointed by the Commission shall serve at the pleasure of the Commission.

(D) Four members shall constitute a quorum of a Committee and the affirmative vote of three members or a majority of the members present, whichever is greater shall be required for any official action to be taken by the Committee.

(E) In the event a Committee is unable to obtain a quorum due to conflict of interest involving its members, or, in the case of the Director of the Department of Inspections, Permits and Licenses or his designee, a personal conflict of interest, the member(s) who are unable to participate due to the conflict of interest shall be replaced by special members to serve as members of the Committee for the case(s) giving rise to the conflict of interest in accordance with the qualifications and process set forth in paragraph (C) above.

SECTION III: Section 32.263 is hereby added to the Code, to read as follows:

32.263 APPEALS FROM THE COMMISSION

An appeal from the Commission shall be taken by ~~the applicant~~ any person or entity claiming to be injured or aggrieved by the final action of the Commission to the Jefferson Circuit Court within 30 days of the Commission's final action, which shall be defined as the date on which the Commission votes to approve or

disapprove on the matter giving rise to the appeal. The property owner, applicant and the Commission shall be named as parties to the appeal.

SECTION #IV: This Ordinance shall take effect upon its passage and approval

Kathleen J. Herron
Metro Council Clerk

David W. Tandy
President of the Council

Jerry Abramson
Mayor

Approved: _____
Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____